

1 Gene J. Stonebarger, State Bar No. 209461  
2 Richard D. Lambert, State Bar No. 251148  
3 STONEBARGER LAW  
4 A Professional Corporation  
5 75 Iron Point Circle, Suite 145  
6 Folsom, CA 95630  
7 Telephone (916) 235-7140  
8 Facsimile (916) 235-7141

5 Thomas A. Kearney, State Bar No. 90045  
6 Prescott W. Littlefield, State Bar No. 259049  
7 KEARNEY LITTLEFIELD, LLP  
8 3436 N. Verdugo Rd., Ste. 230  
Glendale, CA 91208  
Telephone (213) 473-1900  
Facsimile (213) 473-1919

10 Attorneys for Plaintiffs ROSE FEAVER,  
ARTIN ADAMIAN, AND MYUNGSUN SHIM  
11 and the Class

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

15 ROSE FEAVER, an individual,  
16 MYUNGSHUN SHIM, an individual,  
17 ARTIN ADAMIAN, an individual,  
individually, and on behalf of all others  
similarly situated,  
18 Plaintiffs,  
19 v.  
20 KAISER FOUNDATION HEALTH PLAN,  
INC.,  
21 KAISER FOUNDATION HOSPITALS, and  
22 Does 1 through 50, Inclusive  
23 Defendants.  
)

) CASE NO.: 3:15-CV-00890-EMC  
)  
) Assigned To: Hon. Edward M. Chen  
)  
**CLASS AND COLLECTIVE ACTION**  
)  
)

) STIPULATION REGARDING NOTICE  
OF CONDITIONAL CERTIFICATION  
AND [PROPOSED] ORDER  
)

TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

Pursuant to this Court's Order Granting Plaintiffs' Motion for Conditional Certification,  
dated Jan. 27, 2016 [Docket No. 39], Plaintiffs, Rose Feaver, Artin Adamian, and Myungsun

1 Shim (collectively "Plaintiffs"), and Defendants Kaiser Foundation Health Plan, Inc. and Kaiser  
2 Foundation Hospitals, Inc. (collectively "Defendant"), by and through their respective counsel of  
3 record, hereby stipulate as follows:

4       1. The Parties select Rust Consulting, Inc. to serve as the Claims Administrator with  
5 regard to this notice plan.

6       2. Plaintiffs shall bear the costs of the notice.

7       3. Within thirty (30) days of the date that the Court issues an Order approving this  
8 Stipulation and Proposed Order, Kaiser shall provide the names and last known mailing  
9 addresses of members of the conditionally certified collective ("Class List") to the Claims  
10 Administrator. The Claims Administrator shall maintain the Class List in the strictest of  
11 confidence and shall not disclose such information to any person or entity, including but not  
12 limited to Plaintiffs and Plaintiffs' counsel, and shall not use the Class List for any purpose other  
13 than effectuating notice pursuant to this Stipulation, except as directed by the Court.

14       4. Within fifteen (15) days of receipt of the Class List, the Claims Administrator  
15 shall send the proposed Notice, substantially in the form attached as Exhibit A, and Consent to  
16 Join Form, substantially in the form attached as Exhibit B, to all individuals on the Class List at  
17 the address provided therein. Together with the Notice and Consent to Join Form, the Claims  
18 Administrator will provide a pre-stamped, pre-addressed envelope addressed to itself for the  
19 return of Consent to Join Forms. The Claims Administrator shall include no additional materials  
20 in this mailing. The Claims Administrator may also establish an email address and fax number  
21 at which it may receive completed Consent to Join Forms.

22       5. Attached hereto as Exhibit C is a postcard reminder that will be mailed by the  
23 Claims Administrator 30 days after the initial mailing.

24       6. Members of the conditionally certified collective will have 45 days from the date  
25 of the mailing of the Notice to return Consent to Join Forms (or, if they elect to participate in the  
26 action but not to be represented by Plaintiffs' counsel, to file their own Consent to Join Forms  
27 with the Court). All opt-in notifications must be postmarked or actually received by the Claims  
28 Administrator by the date 45 days after mailing (the "Bar Date").

1       7. The Claims Administrator shall provide all signed, valid Consent to Join Forms to  
2 Plaintiffs' counsel for filing within three business days after receipt.

3       8. The only notification of conditional certification, the lawsuit, and the right to opt  
4 in shall be the Notice and reminder postcard approved by the Court herein. The Notice and  
5 Consent to Join Form shall be mailed to each member of the conditionally certified collective  
6 one (1) time subject to a basic skip trace for any returned undeliverable notices.

7  
8  
9 Dated: March 1, 2016

KEARNEY LITTLEFIELD, LLP  
STONEBARGER LAW, APC

10  
11 By: Prescott W. Littlefield  
12 Prescott W. Littlefield  
13 Attorneys for Plaintiff

14 Dated: March 1, 2016

SEYFARTH SHAW, LLP

15  
16 By: Christian J. Rowley  
17 Christian J. Rowley  
18 Attorneys for Defendant

I, Prescott W. Littlefield, hereby attest that pursuant to LR 5-1(i) I have on file concurrence  
for any signatures indicated by a "conformed" signature (/s/) within this e-filed document.

20  
21 /s/ Prescott W. Littlefield  
22 Prescott W. Littlefield

23 ~~[PROPOSED] ORDER~~

24  
25 IT IS SO ORDERED.

26 March 2, 2016  
27 Dated: \_\_\_\_\_



# Exhibit A

**NOTICE OF OPPORTUNITY TO JOIN A  
FAIR LABOR STANDARDS ACT LAWSUIT**

From: Claims Administrator, *Feaver, et al. v. Kaiser Foundation Health Plan et al.*

To: All Outpatient Pharmacy Managers (“OPMs”) who have worked for Kaiser at anytime from October 4, 2013 through the present.

Date: [Date of mailing]

Re: A collective action lawsuit against Kaiser Foundation Health Plan and Kaiser Foundation Hospitals (“Kaiser”) under the federal Fair Labor Standards Act.

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The purpose of this Notice is to inform you of the existence of a collective action lawsuit and to provide you an opportunity to participate in this lawsuit. The United States District Court for the Northern District of California in the lawsuit *Feaver et al. v. Kaiser Health Plan et al.*, Docket No. 3:15-CV-00890, has ruled that the named Plaintiffs, Artin Adamian, Myungsun Shim, and Rose Feaver (collectively “Plaintiffs”) may provide notice to OPMs who worked for Kaiser at any time from October 4, 2013 to the present and allow them to join the lawsuit.

***The Court has made no ruling on the substantive merits of the case at this stage of the lawsuit.*** There will be later phases of the lawsuit when the Court will decide whether to allow the case to proceed to trial as a collective or class action and whether the Plaintiffs are entitled to any allegedly unpaid overtime compensation.

**1. WHAT THE LAWSUIT IS ABOUT**

Plaintiffs filed this lawsuit against Kaiser on February 26, 2015. Plaintiffs are current and former OPMs employed by Kaiser who claim they were not paid overtime wages for all hours they worked. They assert their claims under the Fair Labor Standards Act (“FLSA”) and California law. Plaintiffs filed the lawsuit individually and on behalf of all other allegedly similarly situated persons. They claim that as of October 4, 2013, Kaiser had notice that OPMs, as a group, were sending emails while not clocked in, but that Kaiser failed to pay OPMs for this time worked. The lawsuit seeks back overtime pay plus liquidated damages equal to the amount of the back pay owed. The lawsuit also asks that Kaiser be required to pay Plaintiffs’ costs and attorney’s fees. Plaintiffs are represented by the law firms Kearney Littlefield LLP and Stonebarger Law.

Kaiser strenuously denies Plaintiffs' allegations, maintains that its policies and practices were and are lawful and that it paid OPMs for all time worked, and denies that it owes Plaintiffs any additional wages or other damages, including any overtime wages. Kaiser also maintains that the case cannot be maintained as a class or collective action through trial. Kaiser is represented by the law firm Seyfarth Shaw LLP.

## **2. WHO CAN PARTICIPATE IN THE LAWSUIT**

You can join this lawsuit if you worked as an OPM for Kaiser at any time since October 4, 2013. You can join the case even if Kaiser has paid you some overtime during this time period. You can join the case if you are still employed by Kaiser. Kaiser will not retaliate against any employee for participating in the lawsuit. It is entirely your choice whether to participate in the lawsuit, if you are eligible to do so.

## **3. HOW TO PARTICIPATE IN THIS LAWSUIT**

If you wish to join this case, you may do so by completing the attached "Consent to Join Form" and returning it to the Claims Administrator. The Claims Administrator's contact information can be found on the Consent to Join Form and at the end of this Notice. You may mail the form back to the Claims Administrator in the included, pre-addressed and stamped envelope, scan and email it to the email address provided, or fax it to the phone number provided. The form must be postmarked by **[date 45 days from mailing]**. You must return the Consent to Join Form by that date to participate in this lawsuit. It is entirely your own decision whether or not to join this lawsuit. Your receipt of this notice does not mean that you have a valid claim or that you are entitled to any monetary recovery. Any such determination must still be made by the Court.

## **4. EFFECT OF JOINING THIS CASE**

If you choose to join in this case by returning a Consent to Join Form, you will become a party plaintiff and you will be bound by any judgment on the Plaintiffs' FLSA claims, whether it is favorable or unfavorable. Your Consent to Join Form will be filed with the Court.

By signing and returning the Consent to Join Form attached to this Notice, you are agreeing to designate Plaintiffs' counsel as your attorneys to represent you concerning the

method and manner of conducting this litigation and all other matters pertaining to this lawsuit. The attorneys for the Plaintiffs are being paid on a contingency fee basis. If you return a Consent to Join Form, you will be contacted by counsel for Plaintiffs regarding entering into a formal attorney client agreement for counsel's services.

You also have the right to join this lawsuit and be represented by counsel of your own choosing who will represent only you and will be compensated on the terms as agreed between you and your attorney. You may also proceed *pro se*, which means on your own and without an attorney. If you want to join the action but do not want to be represented by Plaintiffs' counsel, you must submit an "opt-in" consent form to the Claims Administrator (whose contact information is provided in Section 8, below) stating that you do not wish to be represented by Plaintiffs' counsel by [date 45 days from mailing].

#### **5. TO STAY OUT OF THE LAWSUIT**

If you do not wish to be part of the lawsuit, you do not need to do anything. If you do not join the lawsuit, you will not be part of the case in any way and you will not be bound by or affected by the result on the Plaintiffs' FLSA claims (whether favorable or unfavorable). Your decision not to join this case will not affect your right to bring a separate FLSA case on your own at a future time.

#### **6. NO RETALIATION PERMITTED**

Federal law prohibits Kaiser from discharging you, or in any other manner retaliating against you, because you "opt-in" to this case or have in any other way exercise your rights under the FLSA.

#### **7. YOUR LEGAL REPRESENTATION IF YOU JOIN**

If you choose to join this lawsuit and agree to be represented by Plaintiffs' attorneys, your counsel in this action will be:

Thomas A. Kearney, State Bar No. 90045  
Prescott W. Littlefield, State Bar No. 259049  
KEARNEY LITTLEFIELD, LLP  
3436 N. Verdugo Rd., Ste. 230  
Glendale, CA 91208  
Telephone (213) 473-1900  
Facsimile (213) 473-1919

Gene J. Stonebarger, State Bar No. 209461

Richard D. Lambert, State Bar No. 251148  
STONEBARGER LAW, APC  
A Professional Corporation  
75 Iron Point Circle, Suite 145  
Folsom, CA 95630  
Telephone (916) 235-7140  
Facsimile (916) 235-7141

**8. FURTHER INFORMATION**

Further information about this Notice, the deadline for filing a Consent to Join Form, or answers to questions concerning this lawsuit may be obtained by contacting the Claims Administrator or Plaintiffs' counsel. Plaintiffs' counsel's contact information is above. The contact information for the Claims Administrator is:

[FILL IN CLAIMS ADMINISTRATOR CONTACT INFO]

The Complaint and Kaiser's Answer filed in this lawsuit are available for inspection online at [WORKING ON A URL]. In addition, you may obtain a copy of any documents filed in this Action by contacting Plaintiffs' counsel.

**THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE FEDERAL DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, HONORABLE EDWARD M. CHEN, UNITED STATES DISTRICT JUDGE. THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF PLAINTIFFS' CLAIMS OR OF KAISER'S DEFENSES.**

**PLEASE DO NOT CONTACT THE COURT, THE COURT'S CLERK, OR THE JUDGE.  
THEY ARE NOT PERMITTED TO ADDRESS YOUR INQUIRIES OR QUESTIONS.**

# **Exhibit B**

## CONSENT TO JOIN FORM

### Consent to sue under the Fair Labor Standards Act (FLSA)

I work or have worked as an Outpatient Pharmacy Manager with either Kaiser Foundation Health Plan, Inc. or Kaiser Foundation Hospitals at some time from October 4, 2013 through the present.

I choose to participate in the conditionally certified collective action titled *Rose Feaver, et al. v. Kaiser Foundation Health Plan, Inc.* pending in the United States District Court for the Northern District of California, under the Fair Labor Standards Act, 29 U.S.C. §216(b).

I choose to be represented in this matter by counsel for Plaintiffs Kearney Littlefield LLP and Stonebarger Law APC, in this action. I hereby consent, agree, and opt-in to become a party plaintiff and agree to be bound by any adjudication or settlement of this action, whether it is favorable or unfavorable.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

Address: \_\_\_\_\_

Email Address: \_\_\_\_\_

Work Location(s): \_\_\_\_\_

**IN ORDER TO PARTICIPATE IN THE LAWSUIT FOR PURPOSES OF THE FLSA CLAIMS ASSERTED BY THE PLAINTIFFS YOU MUST RETURN THIS FORM TO THE CLAIMS ADMINISTRATOR SO THAT IT IS POSTMARKED OR ACTUALLY RECEIVED BY [DATE].**

The Claims Administrator's contact information is:

**[INSERT CLAIMS ADMINISTRATOR CONTACT INFORMATION]**

For further information, please contact Plaintiffs' Counsel or the Claims Administrator.  
Plaintiffs' counsel's contact information is:

Prescott W. Littlefield  
KEARNEY LITTLEFIELD, LLP  
3436 N. Verdugo Rd., Ste. 230  
Glendale, CA 91208  
pwl@kearneylittlefield.com

Richard D. Lambert  
STONEBARGER LAW, APC  
75 Iron Point Circle, Suite 145  
Folsom, CA 95630  
rlambert@stonebargerlaw.com

**\*\*\*Please Do Not Call or Write the Court to Obtain Copies of Documents or To Ask Questions.**

# **Exhibit C**

**FEAVER V. KAISER FOUNDATION HEALTH PLAN, INC., ET AL.**

This postcard serves as a reminder that if you want to join the collective action pending in the Northern District of California, which seeks to recover, under the federal Fair Labor Standards Act, unpaid overtime for time you believe you have spent working off the clock, you **MUST** submit your “Consent to Join Form.” You are reminded that Kaiser denies the allegations, and the Court has not issued a ruling on the substantive merits of the case at this stage of the lawsuit. If you are submitting this form by email, or fax, you **MUST** do so before or on [DATE]. If you are mailing the form, it **MUST** be postmarked no later than [date] and sent to the Claims Administrator at:

[INSERT CLAIMS ADMINISTRATOR’S CONTACT INFORMATION]

If you have misplaced your form, additional forms can be obtained from Plaintiffs’ counsel or the Claims Administrator at:

Prescott W. Littlefield  
KEARNEY LITTLEFIELD, LLP  
3436 N. Verdugo Rd., Ste. 230  
Glendale, CA 91208  
pwl@kearneylittlefield.com

Richard D. Lambert  
STONEBARGER LAW, APC  
75 Iron Point Circle, Suite 145  
Folsom, CA 95630  
rlambert@stonebargerlaw.com

**Please Do Not Call or Write the Court to Obtain Copies of Documents or To Ask Questions.**

**CERTIFICATE OF SERVICE**

2 The undersigned hereby certifies that on March 1, 2016, the foregoing

3 • STIPULATION REGARDING NOTICE OF CONDITIONAL CERTIFICATION AND  
4 [PROPOSED] ORDER was filed electronically with the Clerk of the Court to be served by  
5 operation of the Court's CM/ECF electronic filing system to all counsel of record.

Stephanie Judd

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## CERTIFICATE OF SERVICE

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